

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3597 OF 2004

Mrs. Madhavi Mahendra Joshi
and Ors.

... Petitioner

Vs.

The Principal, K.G. Joshi
College of Arts, & Ors.

... Respondents

Mr. R.S. Apte with Mr. M.V. Limaye for the
Petitioner.

Mrs. S.S. Bhende, A.G.P. for R. Nso. 3 to 6.

CORAM : F.I. REBELLO &
S.P. KUKDAY,JJ.
DATED : FEBRUARY 25, 2005

P.C.

. Rule. Heard forthwith.

. Petitioner Nos. 1 to 3 were appointed in the year 1995 and Petitioner No. 4 in the year 1997 as N.B.C. candidates. They were granted approval on 8.11.2001 with retrospective effect for the academic year 1999-2000. Their approval was cancelled by Order dated 13.8.2003. They approached this court and the matter was remanded for consideration. On remand the claims of the Petitioners have been rejected by Respondent No. 4 by his order dated 27/31.2.2004. It is that order which is the subject matter of the present challenge.

. Respondent No. 4 have filed their reply. We have heard the learned counsel for the parties. From the impugned order it appears that the Management has pointed out that in so far as reservation is concerned, the management has filled in 50% of the posts for reserved category, whereas under the rule 9(7) of the M.E.P.S. rules, reservation quota is 34%. That aspect seems to have been ignored by Respondent No. 4 perhaps bearing in mind various G.R.s of the Government. In the order passed today in W.P. No. 3680 of 2004, we have pointed out that in so far as schools and junior colleges are concerned, reservation would be 34% as provided under rule 9(7) and the G.R. issued by the Government in the exercise of its administrative powers, will not be applicable. Considering the above, we find that the petitioners can be adjusted against N.B.C. quota as there is already an excess in the reserved quota.

. In the light of that ends of justice will be met if the impugned order is set aside and the matter is remanded back to Respondent No. 4 for reconsideration in the light what has been set out in the body of this judgement. Respondent No. 4 after hearing the petitioners, Management and the

Department if need be to pass orders within four months from today. If the order be adverse to the petitioners, that order will not be acted upon for a further period of eight weeks from the date of its communication. Rule made absolute accordingly.

No order as to costs.

(F.I. REBELLO,J.)

(S.P. KUKDAY,J.)